

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
WILLIAM J. GAVIN,)	
)	
Plaintiff,)	
)	Civil Action No. 04-12207-GAO
)	
v.)	
)	
BULL HN INFORMATION)	
SYSTEMS INC.,)	
Defendant.)	
_____)	

AFFIDAVIT OF WILLIAM J. GAVIN

I, William J. Gavin, depose and state as follows.

1. I am the Plaintiff in the above captioned matter. This affidavit is based on my personal knowledge.

2. I was misclassified by Defendant as an independent contractor rather than as an employee during the entire time I was employed by Defendant from 1979 through 2001.

3. Defendant never provided me with a w-2 form for the money paid to me for my work as an employee from 1979 through 2001.

4. Defendant never provided me with a 1099 form for the money paid to me for my work as an employee from 1979 through 2001 which they should have if it considered me to be an independent contractor.

5. I was never told by any representative of Defendant at any time that I would receive benefits if I became an employee of defendant.

6. I never received a firm offer from Linda Nidle to become an employee of Defendant in 1991 or at any other time. She never pursued the discussion with me. She never told me if I accepted the offer to become an employee I would receive benefits.

7. Shortly after mentioning to me the possibility of becoming an employee Linda Nidle was laid off by Defendant. At the same time the Defendant was conducting a major layoff throughout the Company which included eliminating approximately one half of the jobs in the Communication Department where I worked.

8. At the time of the layoff Peter Stravropulos, Defendant's my supervisor told me not to worry about being laid off because I "didn't show up on the books."

9. Ted Lavash casually mentioned to me about the prospect of working for the contingent workforce division on one occasion as he was heading out the door.

10. As a very large company defendant had a full human resources department which I believe was fully aware at all times that I was misclassified as an independent contractor rather than an employee.

11. Defendant had an "Independent Contractors and Consultants" policy which I received from Defendant in response to my request for production of documents. This policy which is dated July 1989 Had Defendant followed its own policy and complied with the law, I would have been properly classified as an employee and been given all the employment benefits I now seek. (The policy is attached hereto as "Exhibit A").

12. I did not learn that I was incorrectly classified as an independent contractor rather than an employee until shortly before I met with Cecile Wright,

Defendant's Director or Human Resources.

13. I was not advised that Defendant was denying my request to be reclassified as an employee and to receive all employee benefits due me until March 18, 2002. When Kurt Thelen a member of Defendant's Human Resources Department advised me Defendant was confident I was an independent contractor.

Signed under the pains and penalties of perjury this 29th day of June 2006.

s/William J. Gavin
William J. Gavin